



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Christopher J. Damien

Attorney Docket: SBI-078

S/N: 09/747,038

Group: 3762

Filed: 12/22/00

For: Implantable Osteogenic Material

Examiner: Thomas C. Barrett

Assistant Commissioner for Patents  
Washington, D.C. 20231

**ELECTION AND RESPONSE UNDER 35 U.S.C. § 121**  
**TO OFFICE ACTION DATED OCTOBER 3, 2002**

This paper is filed in response to the Office Action mailed October 3, 2002, and having a one month shortened statutory response period. It is believed that no fee is due. However, please charge any such fee to Centerpulse Deposit Account No. 09-0473.

The Examiner has issued an election requirement under 35 U.S.C. § 121 between Species I, directed to "an osteogenic composition comprising an osteoinductive substance," and Species II, directed to "a collagenous matrix." The Examiner also states that Species I comprises sub-species A, directed to a spinal implant, and sub-species B, directed to a dental implant; and that Species II comprises sub-species C, directed to surgical placement, and sub-species D, directed to injection placement. Office Action at page 2, lines 4-13.

The Examiner states that "Applicant is required . . . to elect a single disclosed species and corresponding sub-species (i.e., elect Species I, sub-species B) for prosecution on the merits . . ." Office Action at page 2, lines 14-16.

REC  
NOV 12 2002  
TECHNOLOGY

Applicant hereby elects Species I, sub-species A. Applicant believes that claims 1-40 read on Species I, and that claims 34 and 37 read on sub-species A of claim 1.

11/01/02  
Date

Respectfully submitted,

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#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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